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SUBJECT: FEDERAL COUNCIL LAW TO CENTRALIZE POWER AWAY FROM LOCAL  
GOVERNMENTS

REF: CARACAS 001232; 08 CARACAS 001453

CLASSIFIED BY: Robin D. Meyer, Political Counselor, DOS, POL; REASON:  
1.4(B), (D)

11. (C) Summary: The Chavista-dominated National Assembly (AN) passed the draft Organic Law of the Federal Government Council in a first vote, which appears engineered to create a parallel structure that could greatly diminish the funding and responsibilities currently granted to governors and mayors. Using a vaguely-defined concept in the 1999 Constitution, the law would create a Federal Council that oversees a plenary, secretariat, and "inter-territorial compensation fund" that answers directly to the President and select Cabinet officials. Chavez would also be granted the authority to determine the number and structure of Federal Development Regions, presumably comprised of several states per region. The opposition has criticized the law as a means of stripping powers from democratically-elected officials. Chavez's supporters argue that it will help alleviate economic and development disparities throughout Venezuela. Like many laws in Venezuela, the draft text is vague and open to interpretation, suggesting that the government will implement the legislation according to its own political benefit. End Summary.

12. (SBU) The draft bill passed its first vote November 3 and is currently in committee awaiting its submission to a final vote. (Note: The AN's session closes on December 15, but draft laws can sit in committee in perpetuity without expiring. End Note.) The AN's Committee for Citizen Participation pledged November 10 that the text would be submitted to a public consultation. Opposition Governors Henrique Capriles Radonski (Miranda State) and Pablo Perez (Zulia State) announced November 8 in a joint press conference that the AN should discuss the legislation with regional representatives and requested their right to present their complaints about the law before the AN. Perez claimed that the GBRV would use the law to "exterminate" states and municipalities and further centralize power into Chavez's hands, claiming that "the Federal Council will function in accordance with the instructions given by the President." Perez said that the bill violated the Constitution on the grounds that it did not defend a decentralized federal system.

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13. (SBU) Chavez's supporters have argued that the Federal Council is a means to redress economic and development disparities among states and municipalities. PSUV AN Deputy Dario Vivas asserted November 9 that "one of the fundamental objectives of this law is the harmonious development of the whole national geography with the goal of guaranteeing the collective well-being of all of the zones, without privileging any of them." He noted that granting Chavez the power to revise Venezuela's territorial divisions was necessary in pursuit of "productive priorities," but pledged that the new structures would not diminish the already existing powers of states and municipalities. The same day, PSUV Governor of Aragua State Rafael Isea asserted that the proposed law would bring Venezuela "towards a communal state" and is "fundamental for the process of decentralization," emphasizing that the goal was creating better "balance." By way of example, he claimed that the law would address the problems of several municipalities within Aragua which have "no means of subsistence because of the Fourth Republic and a bourgeois state based in modern capitalism."

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FEDERAL COUNCIL NOT A NEW IDEA

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14. (SBU) Article 185 of the 1999 Constitution discusses the creation of a Federal Council charged with the "planning and coordination of policies and actions for the development of the process of decentralization and the transference of responsibility from the central government to the states and municipalities." Article 1 of the draft law says that the purpose of the legislation is to establish the "planning and coordination of the policies and actions necessary for adequate regional development." Articles 5 and 6 claim that the transfer of responsibilities is "the means of eliminating the grave inequalities that exist" within the current political-territorial divisions, and that the Federal Council's decisions should be based in the "principles of social justice, citizen participation, [and] protection of territorial integrity."

15. (C) AN Deputy Pastora Medina told Poloff November 10 that the proposed legislation "makes a mockery of" the constitution's call for decentralization, arguing that the law is essentially a perverted version of what the 1999 constitution envisions for a Federal Council. She said that the idea of a council can be traced back to former President Luis Herrera Campins in the early 80s, who wanted to create "federal regions" to group states with similar geographic, economic, and cultural traits into regional units (e.g., Andes, East/Guyana, Los Llanos). Medina opined, however, that rather than be a tool to help organize regions with common interests, the law would create a parallel structure intended to eclipse the powers of state and local governments.

16. (C) Medina asserted that the law would create a direct link between the central government and local structures beholden to Chavez. According to Medina, the aim of the bill is to circumvent state and local governments - and their elected officials, many of whom enjoy their own personal base of support - and consolidate all decisionmaking into the hands of the executive. She noted that Article 7 of the bill's text reads that the President will establish the "designation, function, and formal structure" of the

undefined Federal Development Regions, which the council would then administer - apparently giving Chavez direct oversight authority over public projects at all levels. Medina criticized that Article 9 of the bill described the "civil society" representatives in the council as being comprised of community councils ("consejos comunales"), ill-defined "communes" ("comunas") and "technical committees" ("mesas tecnicas"), and "any other organization based in the people's power." In addition to the vague definitions, Medina said the wording appeared to exclude traditional members of civil society, such as religious groups, businesses, and NGOs. Medina asserted that the bill was part of the GBRV's broader effort to create "exclusive laws" that undermine the authorities granted to democratically-elected officials.

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A NEW STRUCTURE  
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17. (SBU) The legislation delineates several new structures that answer directly to the executive. The plenary is purportedly the primary decision-making entity, which is headed by the Vice President (currently Ramon Carrizales). It also consists of the "Vice-Presidents" within the Council of Ministers (Reftel A), the 23 governors, a mayor from each state, and a "people's power" spokesperson from each of the Federal Development Regions (to be defined in number and structure by Chavez). The smaller

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"secretariat" ("secretaria") is tasked with the execution and administration of the plenary's decisions, and is also headed by the executive VP (Carrizales). The other secretariat members are: the VP of Territorial Development in the Council of Ministers (currently Minister of Energy Rafael Ramirez); another unnamed Cabinet official; and three mayors and three governors elected, respectively, by their peers within the plenary. These six local officials are elected to a one-year term, and are eligible for indefinite reelection.

18. (SBU) According to the draft text, the plenary can only be convoked with Chavez's authorization and will approve proposals with a simple majority vote. Carrizales, as the head of the plenary, is tasked with

presenting the plenary's proposals for the President's consideration. The plenary's responsibilities include proposing to the President what responsibilities and services should be transferred to the "territorial public powers" and proposing to the president the modifications required to obtain "necessary efficiency" in the political/territorial organization of the states.

19. (SBU) The secretariat is described as the "administrative organ" of the council and is tasked with executing its proposals. The draft text lists 25 authorities granted to the secretariat, including promoting the "decentralization" of the population and overseeing public "functions and services." It is also tasked with directing, supervising, evaluating, and controlling the administration of the Inter-Territorial Compensation Fund (see below), elaborating projects in support of a Regional Development Plan to be submitted for consideration to the President, and evaluating the effectiveness of the execution of resources dedicated to the "territorial development balance" with emphasis in "social and economic productivity."

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The Funding  
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¶10. (SBU) The draft law would create an "Inter-territorial Compensation Fund" (ICF), controlled by the federal council and administered by the secretariat, to finance public investments to promote "balanced" regional development. The draft law is vague as to the source and amount of funding for the ICF, stipulating only that it would come from the central government and "territorial political entities." Opposition leaders fear the ICF will be used as a vehicle to divert some of the funds that currently flow to states and municipalities to an entity controlled by President Chavez. This fear is not ungrounded. States and less developed municipalities are dependent financially on central government transfers. While these transfers are mandated by the constitution, the GBRV has found ways of effectively reducing them or, in some cases, channeling a portion of them to entities more closely linked to the central government (Reftel B).

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COMMENT  
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¶11. (C) Even legal experts and opposition officials are unclear on the specific meaning of the draft bill's wording, but the consensus is that the new council could undermine the funding and responsibilities of local elected officials - perhaps even selectively. At a minimum, the legislation would provide Chavez with a tool to pressure governors and mayors to toe the line, or risk having their authority usurped in the name of "regional development." Like previously controversial "revolutionary" legislation, the law would create a veil of legal legitimacy while taking advantage of the numbers. The opposition holds many key mayoral and gubernatorial slots, but Chavistas numerically outnumber the opposition on both counts - as a result, the internal selection process would undoubtedly yield a secretariat controlled entirely by Chavistas and directly overseen by Vice President Carrizales. End Comment.  
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